

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Pacific Steel Incorporated
1700 Cleveland Avenue
National City
California, 91950-4215

ID No. CAD053816617

Pacific Steel Incorporated

Respondent.

Docket HWCA 20020016

IMMINENT AND SUBSTANTIAL
ENDANGERMENT DETERMINATION
AND SCHEDULE FOR COMPLIANCE

Health and Safety Code
Section 25187

INTRODUCTION

1.1. Parties. The Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Pacific Steel Incorporated (Respondent).

1.2. Site. Respondent generates, stores, treats and disposes of hazardous waste at 1700 Cleveland Avenue, National City, California 91950-4215 (Site).

1.3. Permit/Authorization Status. Respondent generates, stores, treats and disposes of the following hazardous waste without a permit or other grant of authorization from the Department: Soil contaminated with auto shredder waste, residues and other hazardous waste associated with Respondent's former auto shredding business operation. Hazardous waste or hazardous

waste constituents found at the Site include heavy metals such as lead, zinc, copper, polychlorinated biphenyls (PCBs) and used oils.

1.4. Jurisdiction. Health and Safety Code section 25187 authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto. Health and Safety Code section 25187(h) further authorizes the Department to require a person to take corrective action immediately upon the issuance of this Order and pending an appeal of this order, if the Department determines that the violations may pose an imminent and substantial endangerment to the public health or safety or the environment.

DETERMINATION OF VIOLATIONS AND
IMMINENT AND SUBSTANTIAL ENDANGERMENT

2.1. The Department has determined that:

2.1.1. Respondent violated Health and Safety Code section 25201(a) in that on or about January 24, 2002 and continuing until at least September 19, 2002, Respondent disposed of hazardous waste containing lead, zinc, and copper onto the soil at the Site and at an adjacent site known as the "Burlington Northern Santa Fe Property" without a permit or other grant of authorization from the Department.

2.1.2. Respondent violated Health and Safety Code section 25201(a) in that on or about January 24, 2002 and continuing to September 19, 2002, Respondent stored hazardous waste at the Site without a permit or other grant of authorization from the Department. Hazardous waste was stored at the Site in at least six piles comprising of at least 33,000 cubic-yards.

2.1.3. Respondent violated Health and Safety Code section 25201(a) in that on or about January 24, 2002 and continuing until at least September 19, 2002, Respondent treated hazardous waste at the Site by using one trammel, one Ex-Tec machine and one eddy current machine without a permit or other grant of authorization from the Department.

2.1.4. Respondent violated Health and Safety Code section 25157.8(a) in that on or about January 24, 2002 and continuing until at least September 19, 2002, Respondent disposed of waste containing total lead in excess of 350 parts per million onto the soil at the Site.

2.2. The Department has further determined that the foregoing violations and the offsite migration of hazardous waste or hazardous waste constituents may pose an imminent and substantial endangerment to the public health or safety or the environment because there are residential, commercial and industrial developments, a school, a pump station operated by the City of San Diego, and a creek located within close proximity

(from one tenth of a mile to half a mile) of the Site, including a residential unit located 80 feet downwind from the Site.

SCHEDULE FOR COMPLIANCE

3. Based on the foregoing DETERMINATION OF VIOLATIONS AND IMMINENT AND SUBSTANTIAL ENDANGERMENT, IT IS HEREBY ORDERED THAT:

3.1.1. Immediately upon the date of issuance of this Order, Respondent shall cease treating and disposing of hazardous waste at the Site, and shall cease excavation, grading and other activities that may disturb soil that is contaminated with hazardous waste or hazardous waste constituents.

3.1.2. Immediately upon the date of issuance of this Order, Respondent shall place covers on all piles known to contain or which may contain hazardous waste or hazardous waste constituents. These covers shall be maintained at all times by Respondent to prevent any release of hazardous waste or hazardous waste constituents into the environment through wind dispersion or other means. Respondent must characterize any soil to be removed from the Site to determine whether it is hazardous waste and must comply with applicable State hazardous waste management requirements if it is determined to be hazardous waste, including requirements for labeling and manifesting it to an authorized hazardous waste facility for storage, treatment or disposal.

3.1.3. Within 60 days of the effective date of this Order, Respondent shall submit to the Department a workplan and

schedule for the necessary investigation, corrective action, removal action and/or remedial action to address any release or threatened release of hazardous waste or hazardous waste constituents at or from the Site. Respondent shall implement all necessary investigation, corrective action, removal action and/or remedial action as required by the Department in accordance with the Department-approved workplans, reports and schedules and applicable statutory and regulatory requirements. Pursuant to Health and Safety Code section 25187.2, Respondent shall reimburse the Department for the Department's costs incurred in overseeing the investigation, corrective action, removal action and/or remedial action required by this Order.

3.2. Submittals. All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Ms. Nennet Alvarez, Branch Chief
Statewide Compliance Division
Southern California Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

Mr. Juan Jimenez
Statewide Compliance Division
2878 Camino Del Rio South, Suite 402
San Diego, California 92108

Mr. Peter Wood
Statewide Compliance Division
1001 I Street
P.O. Box 806
Sacramento, California 95812-0806

Mr. John H. Robertus
Executive Officer
Regional Water Quality Control Board

9174 Sky Park Court
San Diego, California 92123

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified, or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State,

and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

3.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access: Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its

authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.9. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the

Department to copy the documents prior to destruction.

Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.12. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

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OTHER PROVISIONS

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.3. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS AND IMMINENT AND SUBSTANTIAL ENDANGERMENT, the Department will issue a Complaint for Penalty at a later time to assess a penalty against Respondent.

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RIGHT TO A HEARING

6. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

EFFECTIVE DATE

7. Paragraphs 3.1.1 and 3.1.2 of this Order are effective immediately upon the date of issuance indicated below because the Department has determined that the violations associated with these paragraphs may pose an imminent and substantial endangerment to the public health or safety or the environment. Paragraph 3.1.3 of this Order is effective 20 days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondent requests a hearing within the 20-day period.

Date of Issuance: September 24, 2002.

//original signed by//
Nennet V. Alvarez, Branch Chief
Statewide Compliance Division
Southern California Branch
Department of Toxic Substances
Control